

**UNITED STATES BANKRUPTCY COURT
DISTRICT OF MINNESOTA**

In Re:

Chapter 7

Delisi's Italian Restaurant & Lounge,

BKY Case No. 04-40177

Debtor.

**TRUSTEE'S MOTION OBJECTING
TO CLAIM OF MAIN STREET BAKERY**

1. The Chapter 7 Trustee, Brian F. Leonard, hereby brings this Motion and gives notice of hearing.

2. A hearing on this Motion will be held before the Honorable Robert J. Kressel on the 20th day of October, 2004, at 9:30 o'clock a.m. in Courtroom 8 West, U.S. Courthouse and Federal Building, 300 South Fourth Street, Minneapolis, MN 55402 or as soon thereafter as counsel may be heard. Any response or objection to this Motion must be served and filed no later than October 10, 2004, if by mail, or no later than October 13, 2004, if by physical delivery. IF NO RESPONSES OR OBJECTIONS ARE SERVED AND FILED, THE COURT MAY GRANT THE RELIEF REQUESTED WITHOUT A HEARING.

3. Attached hereto is a copy of the claim which is the subject of this Motion and Objection. The Trustee moves that said claim be allowed as a general, unsecured claim.

4. The basis for the Trustee's objection is that the claim is filed as a priority claim, but the claim reflects no basis in law for treatment as a priority claim. The claim reflects a pre-petition obligation of the Debtor, which claim can only be accorded a general, unsecured status.

5. In the event any evidence or testimony is appropriate to be offered at trial, the Trustee may testify, and may call the Claimant as a witness to testify.

WHEREFORE, the Trustee respectfully requests that the claim which is the subject of this Motion be allowed only as a tardily filed, general, unsecured claim, and the Trustee requests such other and further relief as is just and equitable.

**LEONARD, O'BRIEN
SPENCER, GALE & SAYRE, LTD.**

Dated: September 1, 2004

/e/ Brian F. Leonard
By _____
Brian F. Leonard, #62236
Attorneys For Trustee
100 South Fifth Street
Suite 2500
Minneapolis, MN 55402
(612) 332-1030

VERIFICATION

The undersigned, Brian F. Leonard, under penalty of perjury, hereby states that he has read the foregoing Motion and states that the information contained herein is true and correct to the best of his information and belief.

Dated: September 1, 2004

/e/ Brian F. Leonard

Brian F. Leonard

UNITED STATES BANKRUPTCY COURT
DISTRICT OF MINNESOTA (MINNEAPOLIS)

Name of Debtor
DELISI'S ITALIAN RESTAURANT & LOUNGE IN

Case Number
04-40177 - RJK

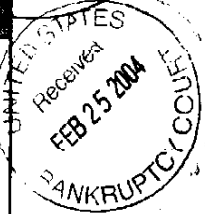
Name of Creditor (The person or other entity to whom the debtor owes money or property):
MAIN STREET BAKERY

Name and Address where notices should be sent:

**MAIN STREET BAKERY
6947 WASHINGTON AVENUE S
EDINA MN 55439**

Telephone Number: **(952) 943-8008**

- ☐ Check box if you are aware that anyone else has filed a proof of claim relating to your claim. Attach copy of statement giving particulars.
- ☐ Check box if you have never received any notices from the bankruptcy court in this case.
- ☐ Check box if the address differs from the address on the envelope sent to you by the court.



Account or other number by which creditor identifies debtor:

Check here if ☐ replaces this claim ☐ amends a previously filed claim, dated _____

1. Basis for Claim

- ☒ Goods sold
- ☐ Services performed
- ☐ Money loaned
- ☐ Personal injury/wrongful death
- ☐ Taxes
- ☐ Other _____

- ☐ Retiree benefits as defined in 11 U.S.C. § 1114(a)
- ☐ Wages, salaries, and compensation (fill out below)
- Your SS #: _____
- Unpaid compensation for services performed from _____ to _____ (date) (date)

2. Date debt was incurred:
SEE ATTACHED SCHEDULES
3. If court judgment, date obtained:
4. Total Amount of Claim at Time Case Filed:
\$ 2,104.23

If all or part of your claim is secured or entitled to priority, also complete Item 5 or 6 below.

- ☐ Check this box if claim includes interest or other charges in addition to the principal amount of the claim. Attach itemized statement of all interest or additional charges.

5. Secured Claim.

- ☐ Check this box if your claim is secured by collateral (including a right of setoff).

Brief Description of Collateral:

- ☐ Real Estate ☐ Motor Vehicle
- ☐ Other _____

Value of Collateral: \$ _____

Amount of arrearage and other charges at time case filed, included in secured claim, if any: \$ _____

6. Unsecured Priority Claim.

- ☒ Check this box if you have an unsecured priority claim
- Amount entitled to priority \$ **2,104.23**
- Specify the priority of the claim: **BAKED GOODS SOLD**
- ☐ Wages, salaries, or commissions (up to \$4,650),* earned within 90 days before filing of the bankruptcy petition or cessation of the debtor's business, whichever is earlier - 11 U.S.C. § 507(a)(3).
- ☐ Contributions to an employee benefit plan - 11 U.S.C. § 507(a)(4).
- ☐ Up to \$2,100* of deposits toward purchase, lease, or rental of property or services for personal, family, or household use - 11 U.S.C. § 507(a)(6).
- ☐ Alimony, maintenance, or support owed to a spouse, former spouse, or child - 11 U.S.C. § 507(a)(7).
- ☐ Taxes or penalties owed to governmental units - 11 U.S.C. § 507(a)(8).
- ☐ Other - Specify applicable paragraph of 11 U.S.C. § 507(a)(____).

*Amounts are subject to adjustment on 4/1/04 and every 3 years thereafter with respect to cases commenced on or after the date of adjustment.

7. Credits: The amount of all payments on this claim has been credited and deducted for the purpose of making this proof of claim.

8. Supporting Documents: Attach copies of supporting documents, such as promissory notes, purchase orders, invoices, itemized statements of running accounts, contracts, court judgments, mortgages, security agreements, and evidence of perfection of lien. DO NOT SEND ORIGINAL DOCUMENTS. If the documents are not available, explain. If the documents are voluminous, attach a summary.

9. Date-Stamped Copy: To receive an acknowledgment of the filing of your claim, enclose a stamped, self-addressed envelope and copy of this proof of claim.

SEND CLAIM TO:
**U.S. BANKRUPTCY COURT
301 11 S. COURTHOUSE
300 SOUTH FOURTH STREET
MINNEAPOLIS, MN 55415**

Date

2/24/04

Sign and print the name and title, if any, of the creditor or other person authorized to file this claim (attach copy of power of attorney, if any):

Scott Buckman, CEO

Penalty for presenting fraudulent claim: Fine of up to \$500,000 or imprisonment for up to 5 years, or both. 18 U.S.C. §§ 152 and 3571.

MAIN STREET BAKERY

6947 Washington Ave South Edina MN 55439
1952) 943-8008 Fax (952) 943-9600

STATEMENT

Feb 24 2004

Page 1

Delisis
8216 Lakeland Ave
Brooklyn Park, MN 55445

Ref : DE
Route: 5/24
Terms: 7 days. Net 7

DATE	REFERENCE	CHARGES	CREDITS	BALANCE
		Unapplied payments:		0.00
Oct 17	JC44458 PartPd			
		7.69		7.69
Oct 21	JC44702			
		28.90		36.59
Oct 25	JC45083			
		82.75		119.34
Oct 29	JC45345			
		52.02		171.36
Oct 31	JC45533			
		98.26		269.62
Nov 06	KC45958			
		57.80		327.42
Nov 08	KC46126			
		127.16		454.58
Nov 13	KC46465			
		57.80		512.38
Nov 18	KC46823			
		46.24		558.62
Nov 24	KC47263			
		40.46		599.08
Nov 25	KC47359			
		46.24		645.32
Nov 26	KC47455			
		57.80		703.12
Dec 05	LC48181			
		57.80		760.92
Dec 06	LC48188			
		86.70		847.62
Dec 08	LC48265			
		46.24		893.86
Dec 09	LC48469			
		46.24		940.10
Dec 10	LC48471			
		33.88		973.98
Dec 11	LC48550			
		57.80		1031.78
Dec 13	LC48739			
		81.36		1113.14
Dec 16	LC48920			
		69.07		1182.21
Dec 17	LC49025			
		55.68		1237.89
Dec 18	LC49103			
		144.68		1382.57
Dec 20	LC49298			
		74.58		1457.15

Dec 22 LC49378	61.02	1518.17
Dec 26 LC49587	35.88	1554.05
Dec 27 LC49653	67.80	1621.85
Dec 30 LC49790	90.84	1712.69
Jan 02 AD49979	88.14	1800.83
Jan 05 AD50134	86.44	1887.27
Jan 07 AD50272	33.90	1921.17
Jan 09 AD50440	94.92	2016.09
Jan 15 AD50619	54.24	2070.33
Jan 16 AD50904	33.90	2104.23

7+	0.00 14+	0.00 21+	2104.23	2104.23
PLEASE PAY THIS AMOUNT				

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Debtor.

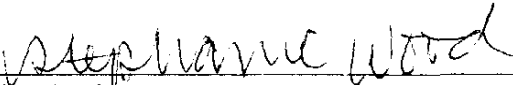
UNSWORN CERTIFICATE OF SERVICE

I, Stephanie Wood, declare under penalty of perjury that on the 1st day of September, 2004, I mailed a copy of the annexed *Trustee's Motion Objecting to Claim of Main Street Bakery and Order (proposed)* on:

Steve Buckman
Main Street Bakery
6947 Washington Avenue S.
Edina, MN 55439

by mailing to all parties copies thereof, enclosed in an envelope, postage prepaid, and by depositing the same in the post office at Minneapolis, Minnesota, directed to said party at the last known addresses of said parties.

Dated: September 1, 2004


Stephanie Wood
100 South Fifth Street, Suite 2500
Minneapolis, MN 55402
(612) 332-1030

**UNITED STATES BANKRUPTCY COURT
DISTRICT OF MINNESOTA**

In Re:

Chapter 7

Delisi's Italian Restaurant & Lounge,

BKY Case No. 04-40177

Debtor.

ORDER

At Minneapolis, Minnesota this 20th day of October, 2004.

The Chapter 7 Trustee in this case filed a motion objecting to the claim of Main Street Bakery, and a hearing thereon was held at 9:30 o'clock a.m. on October 20, 2004. Appearances were noted in the record.

Based upon the Trustee's objection, and upon all of the files and proceedings in this case, it is hereby,

ORDERED, that the claim of Main Street Bakery filed in this case is determined to be a general, unsecured claim.

Robert J. Kressel
United States Bankruptcy Judge